FACSIMILE TRANSMITTAL FORM	Application Number	09/997082
	Filing Date	November 28, 2001
	First Named Inventor	Clark, John C.
	Art Unit	1771
	Examiner Name	Andrew T. Piziali
Fax: 571-273-8300	Attorney Docket Number	57254US002
Total Number of Pages In This Submission: 4		
Date: October 11, 2005	Attorney for Applicant: Philip Y. Dahl	

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REMARKS:		

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Patent
Case No.: 57254US002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	CLARK, JOHN C.		
Application No.:	09/997082	Group Art Unit:	1771
Filed:	November 28, 2001	Examiner:	Piziali, Andrew T.
Title:	FUEL CELL GAS DIFFUSION LAYER COATING PROCESS AND TREATED ARTICLE		

REPLY BRIEF ON APPEAL

Mail Stop: Appeal Brief-Patents
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CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]
I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

October 11, 2005
Date

Signed by: Sharon L. Andrew

Dear Sir:

This is an appeal from the Office Action mailed on June 15, 2005, finally rejecting claims 10-19.

REPLY ARGUMENT

Issues 1, 2 and 3, Claims 10-13

The Examiner appears to agree that none of the cited references teach a process which includes step c) recited in the claims: electrophoretically depositing a highly fluorinated polymer from a dispersion onto a carbon fiber construction. Instead, the Examiner asserts that "the cited prior art, in combination, rather than singularly, teaches the claimed step." (Examiner's Answer at page 7 and at page 9).

Zuber and Breault teach "a method of making a hydrophobic carbon fiber construction comprising the step of immersing a carbon fiber construction in an aqueous dispersion of highly fluorinated polymer" (June 15 Office Action at page 2, 4). No electricity is applied. Lenfant concerns a process of electrostatic projection, wherein a dry powder, supported in a current of gas, is deposited on a support. (Lenfant at col. 3, lns. 65-75). A dry process with no aqueous dispersion. To discover electrophoresis by combining these references would be highly inventive!

Kosuda does not teach or suggest the use of a fluoropolymer or the treatment of a carbon fiber construction, both being required in the present claims, and has no relevance to the present invention.

Again, the Examiner has argued that these references motivate the researcher to *combine* these references because they all relate to an invention that is purportedly *inherent* in their combination, i.e., an article coated with a monolayer of particles. (June 15 Office Action at 6). There can be no doubt that this is impermissible hindsight.

Issues 1, 2 and 3, Claims 12-19

The Examiner again asserts that "it appears that the hydrophobic carbon fiber construction taught by the prior art inherently possesses a monolayer." (Examiner's Answer at page 11). However, the Examiner has again presented no "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)(cited at MPEP § 2112).

The Examiner has previously stated, "In the event that it is shown that a monolayer does not exist, it would have been obvious to one having ordinary skill in the art at the time of the

invention was made to vary the voltage and/or current applied to vary the amount of polymer deposited, such that a monolayer of particles of highly fluorinated polymer was deposited based on the desired amount of polymer and because discovering an optimum value of a result effective variable involves only routine skill in the art." (Office Action at 3). However, the Examiner has again presented no teaching in any of the references that "voltage and/or current applied" is a result effective variable in achieving a monolayer.

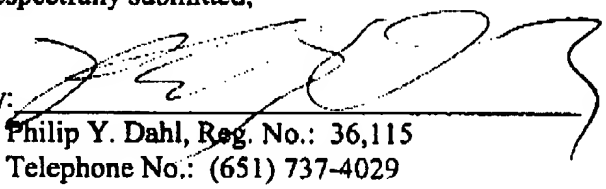
Again, the Examiner has argued that these references motivate the researcher to *combine* these references because they all relate to an invention that is purportedly *inherent* in their combination, i.e., an article coated with a monolayer of particles. (June 15 Office Action at 6). There can be no doubt that this is impermissible hindsight.

CONCLUSION

For the foregoing reasons, appellants respectfully submit that the Examiner has erred in rejecting this application. Please reverse the Examiner on all counts.

Respectfully submitted,

October 11, 2005
Date

By: 
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